

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CASE NO. 1:14-CV-954**

STUDENTS FOR FAIR ADMISSIONS,)
INC.,)
)
Plaintiff,)
) **DEFENDANTS' MOTION TO FILE**
v.) **UNDER SEAL PURSUANT TO**
) **LOCAL RULE 5.4(c)**
THE UNIVERSITY OF NORTH)
CAROLINA AT CHAPEL HILL, et al.,)
)
Defendants.)
)
)

Pursuant to Local Rule 5.4(c) of the Rules of Practice and Procedure of the United States District Court for the Middle District of North Carolina, Defendants respectfully move to file certain documents under seal.

1. On October 25, 2017, Defendants filed a motion to dismiss Plaintiff's complaint pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure (ECF 106). In this motion and supporting memorandum of law (ECF 107), Defendants challenge Plaintiff's eligibility to assert representational standing and corresponding standing to bring this lawsuit. Defendants' memorandum of law discusses and attaches as exhibits certain discovery materials, including specific deposition testimony and produced documents that are directly relevant to this issue.

2. Pursuant to Section 3.1.1 of the Amended Confidentiality and Protective Order entered by this Court on September 1, 2015 (the "Protective Order") (ECF 61),

Plaintiff has designated information within some of these discovery materials Confidential or Highly Confidential.

3. Ahead of filing its motion to dismiss and supporting materials, Defendants met and conferred with Plaintiff's counsel regarding its confidentiality designations with respect to these materials. Plaintiff agreed that certain materials could be filed without redaction. There are two categories of information that Plaintiff continues to assert confidentiality over and that necessitate redactions and this motion to file limited materials under seal.

4. Specifically, Plaintiff seeks to protect the identity of "Standing Member #1." Excerpts of Standing Member #1's deposition testimony are quoted within Defendants' Memorandum and attached as Exhibit 3 to that document. Plaintiff does not assert confidentiality over the substance of that testimony. Defendants have redacted only the individual's name, which is displayed on top of each deposition transcript page, and have made limited redactions to the memorandum of law as necessary. No other redactions have been applied to Exhibit 3.

5. Plaintiff also asserts confidentiality with respect to certain of its Responses within Plaintiff's Second Amended Objections and Responses to Defendant's First Combined Discovery Requests (excerpts of which are attached as Exhibit 6 to Defendants' Memorandum). Defendants seek to file Exhibit 6 under seal and have made limited redactions to the memorandum of law as necessary.

6. Defendants do not challenge Plaintiff's designation of any of this information as Confidential or Highly Confidential under the Protective Order.

7. Plaintiff, as the party claiming confidentiality over this information, will have fourteen days to file a brief providing the information required by Local Rule 5.4(b).

WHEREFORE, Defendants respectfully request that the Court grant this motion and allow unredacted versions of Defendants' Memorandum and exhibits identified above to be filed under seal until further order of the Court and to be viewed only by the Judge, her clerk(s), and Court personnel.

Respectfully submitted this 25th day of October, 2017.

JOSH STEIN
Attorney General

/s/ Michael Scudder
Michael Scudder
Lara Flath
Marianne Combs
Skadden, Arps, Slate, Meagher & Flom
LLP
155 North Wacker Drive
Chicago, IL 60606-1720
(312) 407-0700
E: michael.scudder@skadden.com
E: lara.flath@skadden.com
E: marianne.combs@skadden.com

/s/ Lisa Gilford
Lisa Gilford
Skadden, Arps, Slate, Meagher & Flom
LLP
300 South Grand Ave.
Los Angeles, CA 90071
(213) 687-5130
E: lisa.gilford@skadden.com

/s/ Stephanie Brennan
Stephanie Brennan
Special Deputy Attorney General
NC State Bar No. 35955
E: sbrennan@ncdoj.gov

/s/ Matthew Tulchin
Matthew Tulchin
Special Deputy Attorney General
NC State Bar No. 43921
E: mtulchin@ncdoj.gov
NC Department of Justice
Post Office Box 629
Raleigh, NC 27602-0629
(919) 716-6920

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Motion to File Under Seal Pursuant to Local Rule 5.4(c) via the Court's electronic filing systems, pursuant to the Electronic Filing Procedures, on all attorneys of record who have entered an appearance by ECF in this matter.

This 25th day of October, 2017.

/s/ Michael Scudder
Michael Scudder